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Testimony Before the Human Services Committee

S. B. No. 853 (RAISED) AN ACT LIMITING LIABILITY FOR HOMEMAKERS AND COMPANIONS WHO TRANSPORT HOME CARE RECIPIENTS.

S. B. No. 872 (RAISED) AN ACT PROVIDING STATE-FUNDED MEDICAL COVERAGE TO CHILDREN IN THE CARE OF THE DEPARTMENT OF DEVELOPMENTAL SERVICES.

H. B. No. 6401 (RAISED) AN ACT CONCERNING THE FEDERAL SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM.

H. B. No. 6351 (RAISED) AN ACT CONCERNING THE LEGISLATIVE COMMISSIONERS' RECOMMENDATIONS FOR TECHNICAL REVISIONS TO THE HUMAN SERVICES STATUTES.

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Proposed S. B. No. 634 AN ACT CONCERNING MEDICAID COVERAGE FOR MEDICATIONS USED TO SAFELY TREAT OPIOID ADDICTION.

Proposed S. B. No. 635 AN ACT REQUIRING HEALTH CARE PROVIDERS TO INFORM MEDICAID BENEFICIARIES CONCERNING THE USE OF MEDICATIONS FOR THE TREATMENT OF OPIOID DEPENDENCY.

Proposed H. B. No. 6146 AN ACT CONCERNING ELIGIBILITY LIMITS FOR MEDICARE SAVINGS PROGRAMS.

H. B. No. 6402 (RAISED) AN ACT CONCERNING MAXIMIZATION OF MEDICAID REIMBURSEMENT FOR THE STATE OF CONNECTICUT AND FEDERAL MEDICAL ASSISTANCE PERCENTAGES (FMAP).

S. B. No. 817 (RAISED) AN ACT CONCERNING THE RIGHT TO A HEARING IN THE RENTAL ASSISTANCE PROGRAM, TRANSITIONARY RENTAL ASSISTANCE PROGRAM AND SECTION 8 VOUCHER PROGRAM.

S. B. No. 820 (RAISED) AN ACT CONCERNING THE ESTABLISHMENT OF A RAPID REHOUSING PROGRAM.

H. B. No. 6418 (RAISED) AN ACT CONCERNING TRANSFER OR DISCHARGE OF RESIDENTIAL CARE HOME PATIENTS.

H. B. No. 6416 (RAISED) AN ACT CONCERNING DISPROPORTIONATE SHARE PAYMENTS TO HOSPITALS and S. B. No. 637 AN ACT CONCERNING DISPROPORTIONATE SHARE PAYMENTS TO HOSPITALS

H. B. No. 6400 (RAISED) AN ACT CONCERNING THE STRENGTHENING OF NURSING HOME OVERSIGHT.

Kevin Loveland
David Parrella
February 17, 2009

Good morning, Senator Doyle, Representative Walker and members of the Human Services Committee. My name is Kevin Loveland, Director of the Bureau of Assistance Programs at the Department of Social Services. I am joined by David Parrella, Director of Medical Care Administration at the department. We are principally here this morning to testify in support of legislation introduced in the committee at the request of our department. We are also providing written comments for the record on several other bills on today's public hearing agenda.

Legislation Introduced at the Request of the Department of Social Services (DSS)

S. B. No. 853 (RAISED) AN ACT LIMITING LIABILITY FOR HOMEMAKERS AND COMPANIONS WHO TRANSPORT HOME CARE RECIPIENTS

This bill addresses liability issues brought about by the high incidence of homemakers and companions using personal vehicles and insurance policies to transport Home Care recipients.

Over the past year we have been approached by providers in the Connecticut Home Care Program seeking reimbursement from the Department for non-emergency transportation services that they provide to our clients. While we are interested in pursuing this alternative to the existing non-emergency transportation provider system, we are concerned about the liability issues that are raised by state funded clients being transported in personal vehicles.

Other states, notably Oregon, have already addressed this issue by passing statutes that limit the liability of homemakers and companions who transport state clients enrolled in waiver programs. It is our hope that you will support this bill as the first step to providing a lower cost, more convenient transportation alternative for the elderly and disabled populations served by our home and community based waiver programs.

S. B. No. 872 (RAISED) AN ACT PROVIDING STATE-FUNDED MEDICAL COVERAGE TO CHILDREN IN THE CARE OF THE DEPARTMENT OF DEVELOPMENTAL SERVICES.

Approximately three years ago responsibility for voluntary services for children who qualify for DDS services was transferred from the Department of Children and Families to the Department of Developmental Services. Children who are placed out of state in residential facilities by DDS may or may not qualify for Medicaid depending on the level of involvement of their parents in the day-to-day decision-making concerning the child's care. These children placed in residential treatment also typically do not qualify under Medicaid rules until the month they have been in residential placement for 30 days. This bill will include the Department of Developmental Services, in addition to the Department of Children and Families, as a state agency whose children can qualify for state-funded medical assistance if they do not qualify for Medicaid in order to assure these children have access to needed medical services during these gaps in Medicaid eligibility.

The department recommends that the Human Services committee support this bill again this year.

H. B. No. 6401 (RAISED) AN ACT CONCERNING THE FEDERAL SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM.

The federal Food, Conservation and Energy Act of 2008 (Public Law 110-246) changed the name of the federal Food Stamp program to the Supplemental Nutrition Assistance Program (SNAP) effective 10/1/08. This bill changes all references to the Food Stamp program in the Connecticut General Statutes to the Supplemental Nutrition Assistance Program, now known as SNAP for short. In addition, the bill changes the name of Connecticut's existing Supplemental Nutrition Assistance Program, which funds the provision of commodities for food pantries, soup kitchens and emergency shelters through the Connecticut Food Bank, to the Supplemental Nutrition Commodities Assistance Program in order to avoid confusion with the federal program.

The department asks for the committee's support of this bill.

Thank you for the opportunity to testify before you today. We will be happy to answer any questions that you may have.

Written Remarks on Additional Legislation

H. B. No. 6351 (RAISED) AN ACT CONCERNING THE LEGISLATIVE COMMISSIONERS' RECOMMENDATIONS FOR TECHNICAL REVISIONS TO THE HUMAN SERVICES STATUTES.

The department requests that two technical revisions be included in this legislation.

1. Due to recent issues that needed attention and analysis in the Certificate of Need (CON) hearing area, it became apparent that 17b-352 (b) needs amending for consistency and accuracy in that it currently does not actually include a person who wants to establish a new facility. It only refers to expanding an existing program.

Subsection (b) of section 17b-352 is amended as follows:

(b) Any individual or entity that intends to establish a new facility and [Any] any facility which intends to (1) transfer all or part of its ownership or control prior to being initially licensed; (2) introduce any additional function or service into its program of care or expand an existing function or service; or (3) terminate a service or decrease substantially its total bed capacity, shall submit a complete request for permission to establish a new facility or implement such transfer, addition, expansion, increase, termination or decrease with such information as the department requires to the Department of Social Services, provided no permission or request for permission to close a facility is required when a facility in receivership is closed by order of the Superior Court pursuant to section 19a-545. The Office of the Long-Term Care Ombudsman

pursuant to section 17b-400 shall be notified by the facility of any proposed actions pursuant to this subsection at the same time the request for permission is submitted to the department and when a facility in receivership is closed by order of the Superior Court pursuant to section 19a-545.

2. Public Act 07-160 amended CGS 17b-112e, the Safety Net Services statute, to add subdivisions (1) and (2) of subsection (a) to reflect the provision of upfront intensive services to participants in the Jobs First Employment Services program through the Employment Success Program, as well as subdivision (3) pertaining to the expansion of the Safety Net program to those whose benefits were terminated at the end of their time limits. These were added to subdivision (4) which was the original criteria to qualify for Safety Net services. Unfortunately the drafter used the conjunction “and” rather than “or”, strictly meaning that someone would have to meet all four criteria to qualify. This was not the legislative intent and makes the statutes internally inconsistent, since the first two subdivisions apply to current recipients of TFA while the second two subdivisions apply to former recipients of TFA.

The department therefore suggests a technical amendment as shown below to correct this error.

Sec. 17b-112e. Safety net services. Regulations. (a) The Department of Social Services shall provide safety net services for certain families identified as having significant barriers to employment and families who are at risk of losing benefits under the temporary family assistance program or no longer receiving program benefits. Such families shall include those: (1) Identified as having significant barriers to employment during the initial assessment by the department's eligibility worker or during the first twelve months of employment services by an employment services case manager; (2) who have made a good faith effort to seek and maintain employment but have not been able to do so or who are at risk of failing to complete the employment services program; (3) who have exhausted their eligibility for temporary family assistance program benefits; [and] or (4) who are not eligible for six-month extensions of temporary family assistance benefits due to: (A) The receipt of two sanctions from the department during the first twenty months of the twenty-one-month time limit of said temporary family assistance program; or (B) the determination by the department that such a family has not made a good-faith effort to seek and maintain employment.

Proposed S. B. No. 346 AN ACT CONCERNING THE TRANSFER OF SOCIAL SERVICE PROGRAM ADMINISTRATION TO COMMUNITY PROVIDERS.

This bill appears to require the transfer of all social services programs in state government from state agency administration to community-based private providers. Although the department believes there is a definite role for community based providers in delivering social services in the state, the administration of certain programs is required to be done by state agency personnel, such as in the Medicaid and Supplemental Nutrition Assistance Programs, or the critical nature of the service call for direct state administration, such as with protective services for children and the elderly

In regard to Medicaid waiver programs, the states make assurances to the Center for Medicare and Medicaid Services when they apply for a waiver. One of those assurances is that the state maintains administrative authority for the waiver and its operational functions. Currently, in the CT Home Care Program for Elders, the assessment, care management and direct service provision are provided by community agencies. The state also assures financial accountability for funds expended. Comprehensive quality assurance and quality improvement initiatives are another assurance that the state is held to. Reporting requirements include both state plan and waiver expenditures. It would seem the state has already transferred all of the functions of the waiver program that are permitted under 1915c of the social Security Act. Transferring additional administration of the CT Home Care Program for Elders would seem to violate federal requirements. In addition to the waiver program, the state administers the state funded portion of the home care program. To the applicant for program services, the process is a seamless one when they transition from one level of the program to another. To split the program and have it administered by both a state agency and community providers would be detrimental to the clients, causing delays and unnecessary gaps in service. It would create duplicate systems for cost reporting and quality management that would only increase costs.

After years of history and partnership with community organizations, this bill seeks to privatize the important work the Department of Social Services has done to assist the indigent citizens of Connecticut. Not only would this result in significant lay-offs for the State at a time of fiscal uncertainty, but it also takes away the State's responsibility to its citizens and puts the onus on community organizations that are often already inundated with work. Further, it reduces DSS' ability to receive FFP for those dollars from the Federal government for which we currently receive a Federal match.

Proposed S. B. No. 528 AN ACT CONCERNING MEDICAID INCOME ELIGIBILITY REQUIREMENTS.

This bill would provide for an unspecified increase in the income limits for the Medicaid program. Given the state's current fiscal condition and the fact that the Governor's budget does not contemplate any increases in these income limits the department must oppose this bill.

Proposed S. B. No. 634 AN ACT CONCERNING MEDICAID COVERAGE FOR MEDICATIONS USED TO SAFELY TREAT OPIOID ADDICTION.

This bill would require the Department of Social Services to inform Medicaid beneficiaries of their right to reimbursement for medication to treat opioid dependency, including medication which has been determined, according to the Drug Enforcement Agency's schedule of controlled substances, to have a lesser potential to create or enhance dependency than the preferred drug prescribed for opioid dependency; and (2) require that Medicaid beneficiaries receive reimbursement for any medication used to treat opioid dependency at the same rate as Medicaid beneficiaries receive for use of the preferred drug prescribed for treatment of opioid dependency.

Each of the above requirements is problematic for different reasons. Section (1) is not appropriate guidance to be issued by the Medicaid agency. It would be extraordinarily costly for the state to provide information of this type directly to our 400,000 plus beneficiaries. In addition, such information will in time be outdated and the Medicaid agency is not in a position to maintain communication with beneficiaries about such diagnosis specific treatment options.

Section (2) is unclear in as much as it does not specify which opioid treatments are being considered, what treatment services are included in the proposed rate, and whether the proposed reimbursement is greater than what is currently provided for under Federal Medicaid law precludes reimbursement for services at rates that are not economic or efficient. Moreover, reimbursement in certain settings, such as freestanding clinic settings, are subject to upper payment limit rules. Based on the limited information provided, the proposed statute may not be consistent with federal law. In addition, it is possible that this law would require reimbursement rates in excess of current rates for the service(s) in question. In as much as this is the case, it would increase expenditures beyond what is provided for in the Governor's recommended budget.

Given the above concerns, the department is opposed to the bill

Proposed S. B. No. 635 AN ACT REQUIRING HEALTH CARE PROVIDERS TO INFORM MEDICAID BENEFICIARIES CONCERNING THE USE OF MEDICATIONS FOR THE TREATMENT OF OPIOID DEPENDENCY.

The bill as proposed supports informed choice of treatment options, which is reasonable and appropriate in any area of health care service delivery. This bill suggests there is a problem that Medicaid beneficiaries are not currently being provided with information about available treatment options; however, to date the Department has received no complaints of such.

We would instead recommend that this bill be amended to refer to patients who are considering treatment for opioid dependence and not exclusively those who are already receiving such treatment.

Proposed H. B. No. 6146 AN ACT CONCERNING ELIGIBILITY LIMITS FOR MEDICARE SAVINGS PROGRAMS

This bill would increase the income limits for the Medicare Savings Programs (Qualified Medicare Beneficiaries (QMB), Specified Low-Income Medicare Beneficiaries (SLMB) and Qualified Individuals (QI)) to the same level as the ConnPACE program. This is approximately 242% of the new federal poverty level (FPL). The maximum income level for the Medicare Savings Programs is currently approximately 166% of Federal Poverty Level for an individual and 181% of FPL for a married couple.

The department is concerned about the potential costs associated with increasing the income levels for these programs. There would be offsetting savings to the state in the

ConnPACE program, as a result of the newly eligible individuals qualifying for the Medicare Part D Low Income Subsidy, which would eliminate ConnPACE program costs related to pharmacy charges in the Medicare D “doughnut hole.” However there would also be additional costs for the administration of these additional Medicare Savings Program cases.

Federal law prohibits the ConnPACE contractor from administering Medicaid program eligibility for the Medicare Savings Programs. Additional state staff would be required to determine the eligibility for those newly eligible under this proposal. The department would design the process to take advantage of the existing ConnPACE eligibility process, but despite this there would be additional costs of administration. In addition, there would be increased state costs related to providing these benefits to individuals who currently do not participate in the ConnPACE program. As a Medicaid entitlement the department cannot limit participation in the expanded Medicare Savings Programs to just those individuals participating in ConnPACE. The state could see a significant increase in participation related to individuals who drop their private Medicare supplemental insurance coverage in order to participate in this expanded coverage, especially if the existing assets tests and estate recovery provisions under the Medicare Savings Program are eliminated. Any analysis of the fiscal impact of this bill would have to consider the greater exposure the state would have from expanded roles in the Medicare Savings Program that would result in significant additional programmatic costs beyond the administrative costs, not just the potential savings in ConnPACE.

Finally, this bill proposes to amend the ConnPACE statute (17b-492) to provide for this coverage. This is not appropriate as this is not a ConnPACE program benefit, but rather a Medicaid benefit.

H. B. No. 6402 (RAISED) AN ACT CONCERNING MAXIMIZATION OF MEDICAID REIMBURSEMENT FOR THE STATE OF CONNECTICUT AND FEDERAL MEDICAL ASSISTANCE PERCENTAGES (FMAP).

The Department is constantly investigating ways to maximize the State’s Federal Medical Assistance Percentages, in collaboration with other state’s Medicaid Programs and with the federal Centers for Medicare and Medicaid Services. The Department would be pleased to report on these efforts to the General Assembly.

S. B. No. 817 (RAISED) AN ACT CONCERNING THE RIGHT TO A HEARING IN THE RENTAL ASSISTANCE PROGRAM, TRANSITIONARY RENTAL ASSISTANCE PROGRAM AND SECTION 8 VOUCHER PROGRAM.

This bill would extend hearing rights under the Uniform Administrative Procedures Act to applicants and recipients of the department’s state-funded housing subsidy programs as well as the federal Section 8 program. The department already has appeal procedures in its regulations for all of these programs that we believe are adequate to protect the rights of program participants. Advocates have not provided any evidence that these existing processes are not sufficient in protecting these rights. Expanding upon these appeal

processes will result in additional costs to the department and other housing authorities that administer the Section 8 Housing Choice Voucher program. In light of this, the department is opposed to this bill.

S. B. No. 820 (RAISED) AN ACT CONCERNING THE ESTABLISHMENT OF A RAPID REHOUSING PROGRAM.

This bill would establish a pilot program to rapidly re-house homeless families within available appropriations. The program would be administered by the Department of Social Services in consultation with the Department of Economic and Community Development and the Department of Children and Families.

The department has been in discussions with the Connecticut Coalition to End Homelessness, DECD and DCF for several months in reference to such pilot program. The Governor's FY2010-2011 biennial budget proposes a rapid rehousing initiative and, in order to do so, maintains existing housing/homeless funding to ensure sufficient appropriations to support the new program in the next biennial budget. The Department of Economic and Community Development would provide funding from its federal HOME Program funds for rental subsidies, DSS would modify its Beyond Shelter Programs to support the program model and the Department of Children and Families would use its flexible funding account to provide funds for an assessment and supports for DCF families who are homeless. The proposed model is based on approaches that have been used successfully in other states to rapidly move homeless families from homeless shelters to rental units in the community. While we do not believe that legislation is required, the department is committed to such a pilot program consistent with the Governor's proposed budget.

H. B. No. 6418 (RAISED) AN ACT CONCERNING TRANSFER OR DISCHARGE OF RESIDENTIAL CARE HOME PATIENTS.

Allowing a formally appointed advocate to represent a client in a hearing is acceptable providing the advocate is appropriately knowledgeable of the client's needs and expectations, and is able to effectively advocate for the same.

H. B. No. 6416 (RAISED) AN ACT CONCERNING DISPROPORTIONATE SHARE PAYMENTS TO HOSPITALS and Proposed S. B. No. 637 AN ACT CONCERNING DISPROPORTIONATE SHARE PAYMENTS TO HOSPITALS.

Currently, hospitals qualify for a disproportionate share adjustment to their Medicaid inpatient rate if their Medicaid inpatient utilization percentage (fee-for-service and managed care) is at least one standard deviation above the mean state-wide utilization percentage or low income utilization exceeds 25%. For the 2009 rate period (10/1/08-9/30/09), four hospitals qualified for the adjustment by having Medicaid utilization in excess of 17.9% (Bridgeport Hospital, John Dempsey, Saint Francis and Yale-New Haven).

This bill would provide a disproportionate share adjustment to all hospitals with Medicaid utilization above the mean thereby qualifying an additional eight hospitals. A preliminary analysis indicates that adoption of this bill would increase Medicaid program expenditures by at least \$4.1 million annually. The Department opposes this bill due to unfunded costs and the State's current fiscal condition.

H. B. No. 6400 (RAISED) AN ACT CONCERNING THE STRENGTHENING OF NURSING HOME OVERSIGHT.

This bill would increase state oversight of the financial condition of nursing homes. The Department agrees with the financial reporting and control requirements in the bill but we do not support adding nursing home oversight responsibilities to the Office of the Comptroller.

Assigning nursing home responsibilities to the Comptroller further fragments state agency responsibilities. The expertise for evaluating the nursing home financial stability resides in my department, DPH and CHEFA. In addition, resources from the Office of the Attorney General's Whistleblower and Health Care units also provide valuable support. It is unnecessary to add the Office of the Comptroller to the nursing home arena.

As you may know, the Department provided testimony before the Select Committee on Aging on Raised Bill 450, An Act Concerning Nursing Home Oversight and we presented testimony to this committee last week on Bill 5059, An Act Concerning the Financial Condition of Nursing Home. In Commissioner Starkowski's testimony on both RB 450 and Bill 5059, he indicated that the Department would work with committees of cognizance to revive the nursing home oversight legislation that was developed last session through extensive work by my department, legislative staff and the Office of the Attorney General but did not pass. The Governor has submitted SB 845 to the Public Health Committee for your consideration. Although Bill 6400 is very similar to SB 845, I recommend passage of the Governor's bill because it is in line with the version of the bill that was negotiated last session by all four caucuses, DPH, DSS and the Office of the Attorney General.

The department looks forward to the adoption of an enhanced nursing home oversight program this year.

